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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,544	02/21/2006	Osamu Kurai	VPM-01401	4325
54/004 7590 06/04/2010 MUIRHEAD AND SATURNELLI, LLC 200 FRIBERG PARKWAY SUITE 1001 WESTBOROUGH, MA 01581				
EXAMINER				
VO, CECILE H				
ART UNIT		PAPER NUMBER		
2169				
MAIL DATE		DELIVERY MODE		
06/04/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

***Advisory Action
Before the Filing of an Appeal Brief***

Application No.

10/551,544

Applicant(s)

KURAI ET AL.

Examiner

CECILE VO

Art Unit

2169

–THE MAILING DATE of this communication appears on the cover sheet with the correspondence address –

THE REPLY FILED 17 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 14 May 2010. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 2-6 and 9-26.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Applicants' Remarks filed 05/17/2010 have been fully considered.

In response to Applicants' argument that: Applicants' presently-claimed invention differs from Sugimoto's disclosure. Applicants recited claims provide for searching content with is suitable for the device, according to capacity in formation thereof, and then a search of key words is performed within the resulting search results obtained by the crawling means. In contrast, Sugimoto retrieves all content that corresponds to key words, creates a retrieval result list, and then edit/filters the list according to terminal capabilities.

The Examiner respectfully disagrees. Sugimoto does not only disclose a retrieving all content that corresponds to key words, creates a retrieval result list, and then edit the list according to terminal capabilities; but also discloses in Third Embodiment (e.g. the user information input to the user information inputting section 8 is sent to the terminal ability information acquiring section 9 and the information about the processing ability of the terminal D that is included in the user information is acquired by the terminal ability information acquiring section 9 (Step ST66). Here, it is to be noted that, when the apparatus A for retrieving and delivering the content has user registration function, it may be configured so that the user information is not sent from the terminal D to the apparatus A for retrieving and delivering the content, and at this time, information about the receiving terminal of the user may be registered in the apparatus A upon user registration in advance, the terminal ability information registered in the apparatus A for retrieving and delivering the content may be acquired by referring to the user identification or other information. Then, the retrieval result list extracted from the database B and output by the content retrieval section 10 is output to the retrieval result list editing section 11. The retrieval result list editing section 112 based upon the terminal ability information from the terminal ability acquiring section 9, edits the retrieval result list, that is, extracts only the information that can be received and displayed or

/Cam Y Truong/
Primary Examiner, Art Unit 2169